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**HEAD OF COUNCIL**









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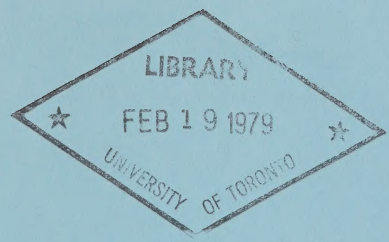
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MINISTRY OF INTERGOVERNMENTAL AFFAIRS

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3

THE HEAD OF COUNCIL



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October 1978





## TABLE OF CONTENTS

	<u>PAGE</u>
Introduction .....	1
Who is the Head of Council? .....	2
Reeve .....	2
Mayor .....	2
Warden .....	2
Chairman .....	3
Formal Duties .....	4
Informal Duties .....	6
Where Does the "Power" Come From? .....	6
Replacing the Head .....	9
The Acting Head (and Deputy) .....	9
The Head As the Leader .....	10





## Introduction

The head of council holds the most prestigious office within local government, but it is difficult to describe exactly what the job is. There are many duties outlined in the statutes and in local by-laws, but the job will be as varied as the circumstances that surround it.

This bulletin examines both the formal and informal duties of the head of council, the different titles used for this position, and the slight variances that are found between the offices of mayor, reeve, warden and chairman.

This bulletin is not a detailed examination of the role of head of council, but is intended to help heads of council become more aware of the rights, responsibilities and limitations of their office. It may also help other council members and municipal staff develop a fuller awareness of the role of head of council and how they, as individuals, are affected by it.

### Who is the Head of Council?

In Ontario there are four different titles used to denote the head of council, but with minor exceptions, all heads of council have the same rights and responsibilities. Those who hold the office are:

- Reeve        - All villages and townships, <sup>1</sup>except those in restructured areas, have councils headed by reeves who are elected at large for a two-year term. Where the municipality is part of a county the reeve automatically becomes a member of the county council (except in the restructured County of Oxford).
  
- Mayor       - All cities and towns and all townships in restructured areas have councils headed by a mayor who is elected at large for a two-year term. Where the municipality is part of a restructured area the mayor automatically becomes a member of the second-tier council. All towns that are part of a county have, as well as a mayor, a reeve who is elected at large and serves as a member of county council, not as head of council of the local municipality. With the exception of the restructured County of Oxford, mayors do not serve on county councils.
  
- Warden      - All counties have councils headed by a warden who is chosen by council from among its members at the first meeting of council each year. (The warden of the restructured County of Oxford is chosen for a two-year term.) Counties use slightly different methods of selecting wardens. While there is no requirement, it has become general practice not to allow wardens to succeed themselves. This practice may have arisen from the tradition of "passing around" the wardenship. In some areas wardens are selected from one part of the county one year, say the rural area, and from another part the next year, perhaps the urban area.

<sup>1</sup>Some heads of council of townships and villages in the Regional Municipality of Ottawa-Carleton are known as Reeves.

In some counties it has been the practice to elect the warden on the basis of political-party affiliation, either switching among the parties or selecting the warden from the party that has the most members on council that particular year. Many feel these practices are no longer appropriate and that the business of county government could be expedited by allowing good wardens to remain in office for more than one year.

Chairman - The ten regional municipalities, the District Municipality of Muskoka and the Municipality of Metropolitan Toronto have councils headed by a chairman who is selected by the council for a two-year term. The chairman does not have to be a member of council, but automatically becomes a member on appointment as chairman. The practice has been for the Province to appoint the chairman for the first term of office of the newly restructured municipality and for council to select its chairman from then on.

The title of chairman also applies to the head of a Board of Trustees in an Improvement District and a Board of Management of an Inter-Urban Administrative Area. (None of the latter is in existence at present). The chairman has the normal duties and responsibilities of a head of council.

The chairman of a Board of Trustees of a police village is not a head of council.

The head of council is the chief executive officer of the municipality - the person who signs documents approved by council. While this title does not bring with it any specific authority, it does place the head in a special position in relation to other members of council, staff, residents of the municipality, and other governments and agencies.

This special status is recognized within The Municipal Act where a number of specific formal duties are set out, and in the general practice that when someone must represent the municipality at a ceremonial or social function, it will be the head of council.



The role of head of council is a combination of these formal and informal duties. There is no formula for the role, and each individual will develop a style based as much on his own attributes and the traditions within the municipality as on the formal requirements of the office.

It is important for the head of council to remember that, despite all the special status and specific duties, there is still only one vote available to him and that vote carries no more weight than the vote of any other council member. Heads of council cannot act on behalf of the municipality; only council can.

### Formal Duties

The Municipal Act in sections 210 and 192 sets out some of the duties of the head of council. These include:

- *To be vigilant and active in causing the laws for the government of the municipality to be duly executed and obeyed;*

All people are expected to uphold the law, but the head of council is specifically required to do so. This requirement is backed up by the authority to call out the "posse comitatus" (specially commissioned citizens) under the same circumstances as a sheriff of a county can.

- *To oversee the conduct of all subordinate officers in the government of it (the municipality), and as far as practicable, cause all negligence, carelessness, and violation of duty to be duly prosecuted and punished;*

While the head of council is required to oversee the staff, there is no definition of what "oversee" means. The head, even if he finds negligence, carelessness or violation of duty, cannot fire a staff member.<sup>1</sup> Only council as a whole can fire or hire.

<sup>1</sup>See Bulletin #12 in this series: Dismissal

- *To communicate to council from time to time such information and recommend to it such measures as may tend to improve the finance, health, security, cleanliness, comfort and ornament of the municipality;*

Of course anyone can convey information and make recommendations to council, but it is important to note that the head of council is specifically mentioned in The Municipal Act. This underlines the responsibility of the head for communicating information obtained from sitting on various boards and commissions and other bodies.

- *To preside at all meetings of the council;*

Many consider this to be the most important duty of the head of council. Without a good chairman the business of council could easily become chaotic. To help ensure fair and proper conduct of the meetings the council should have a procedural by-law<sup>1</sup> or at least agreement on rules of order that the presiding officer can enforce.

Despite the common practice of heads of council voting only to break a tie, the head has the right to vote on all questions before the council, unless there is a conflict of interest<sup>2</sup>. (The exception is the chairman of a restructured municipality who votes only to break a tie.) This right to vote also applies to all committees, boards or commissions of which the head is a member.

The practice of the head voting only to break a tie perhaps stems from the fact that the vast majority of councils in Ontario are composed of an odd number of members. The head, in this situation, might hold back his vote. Of course, if a recorded vote is called for, the head must respond.

Some municipalities follow the practice where the head of council vacates the chair in order to vote. There is no legal requirement for this. In others the head will vacate the chair in order to speak to an issue. Again, there is nothing other than tradition that calls for this.

Where there is a board of control, the head of council presides at board meetings.

<sup>1</sup>See Bulletin #1 in this series: Procedure By-law

<sup>2</sup>See Bulletin #2 in this series: Conflict of Interest in Municipal Government

### Informal Duties

There is nothing in legislation that requires the head of council to be involved in any ceremonial duties. There is probably nothing in local by-laws, either. But any head of council will be quick to note that this is how much of his time is spent.

The head of council is in the best position to represent the municipality at everything from bathtub races to Royal visits. Ceremonial functions bring the head of council into close touch with the residents on a continuing basis. Often the only contacts an individual will have with local government are the annual tax bill and the civic greetings brought by the head at a social function. The latter will likely leave the residents with a warmer feeling toward local government.

In larger municipalities the ceremonial duties will often be so time-consuming that the head is forced to "farm out" some of the responsibilities. A councillor with a special interest in sports may fill in for the head at a sporting event. A councillor who speaks a second language might be called on to represent the municipality at an event where that language will be spoken.

Many municipalities have found that a chain of office adds a touch of dignity to the office of head of council. Ceremonial robes are used on occasion. In most council chambers the head of council's chair is raised above those of other council members.

But the residents of the Town of Niagara-on-the-Lake have the first claim on traditional ceremony. They can call on their Lord Mayor. Niagara-on-the-Lake is the only municipality in Canada with a Lord Mayor. The title is traditional, springing from the earliest period of British rule. The duties and responsibilities are exactly the same as for any other mayor.

### Where Does the "Power" Come From?

Any observer of municipal government will quickly note that the head of council in Ontario has powers that fall somewhere between the situation in some U.S. cities where the mayor can veto council actions and the situation in much of Britain where the mayoralty is strictly a ceremonial function.



The observer will note that despite the formal duties and responsibilities, the head of council in Ontario has little formal power. There is, after all, only one vote.

But the same observer will be able to report that he has heard of both "strong" and "weak" heads of council. Since, in Ontario, the same law applies across municipal government, the strength or weakness of the head of council must come from something other than the formal structure of the office. To a large extent, the strength of the office depends on the personality and abilities of the individual, the tradition in the municipality, and the relationships the person builds with the other elements within local government.

The head of council is often the only person elected at large, and therefore claims a special relationship with the electorate. The head is also more visible to the residents, through ceremonial roles or special attention given by the media, and often is the first name that comes to mind when a resident has a problem. In many municipalities the head of council receives more calls from residents with problems than any other member of council, and perhaps more than individual staff members or departments.

The head of council likely spends more time in the municipal building than any other member of council, and therefore has a special relationship with staff. Very few people have difficulty in recognizing the mayor as the "boss".

One of the duties of the head of council is to make recommendations to council. This suggests the need for a good relationship with staff members who will be called on to do much of the research that would lead to a sound recommendation. Similarly, when there is a problem involving policy, senior staff members will "check it out with the mayor" to see what council's attitude toward the problem is likely to be. The business of local government goes on daily, not just during council meetings.

Where there is a chief administrative officer there is usually a strong working relationship between the head of council, representing the policy-making body, and the C.A.O., representing the policy-administration element of the local government.

There are special relationships with council members as well. Few heads would take an important issue before council without discussing it with at least some members of council. It may be traditional within the municipality for the head to appoint members to committees. There may be a "new guard" or "old guard" to which the head of council is seen to be attached.

Through ex-officio membership on boards and commissions the head is in a good position to know exactly what is going on throughout the municipality, and to help co-ordinate their various activities. Some heads of council find that, in the absence of other communication vehicles, they are the only functioning liaison among these groups and the council.

In many municipalities the head and the chairmen of various council committees have developed a relationship that is akin to an executive committee. If a contentious issue arises, the head will discuss it with the chairmen and be fairly confident of which actions will receive support and which will not.

The head of council has the right to call a special meeting of the council. No other single municipal person has this right. A majority of council members can, however, petition the municipal clerk who must then call a meeting for the time and place and purpose specified in the petition.

The duly elected head remains in office throughout his term unless he resigns, refuses to act or is removed on legal grounds. There is no "recall" as there is in some American cities. Council cannot appoint someone else to fill his ex-officio posts without his permission, and cannot replace him on a Board of Commissioners of Police under any circumstances.

But even the most popular and influential head of council has to accept that in the long run the real power lies with the whole council, not just a part of it. If a head of council feels strongly that the by-law should read "white" and council decides that it will say "black", there is nothing the head can do about it. If he refuses to sign the by-law, council can appoint a presiding officer at the meeting and that person automatically has all the powers of the head during the time of the appointment.

## Replacing the Head

If the office of head of council becomes vacant during the term, there are two ways by which it can be filled. The most common method is for council to hold a special meeting at which a member of council is appointed to the office. All it takes is a simple majority of the members of council to agree to the appointment. The replacement serves for the remaining portion of the term of office.

The second method is to hold a special election to fill the vacancy. To do this, council must pass a by-law. If the vacancy occurs after March 31 in an election year, council cannot call for an election and must appoint one of its members to fill out the term.

It is important to note that only a member of council can be appointed to a vacancy in the office of mayor, warden, reeve or deputy reeve, while any qualified elector can be appointed to a vacancy in other council seats. (A replacement chairman appointed by the council of a restructured municipality does not have to be a member of that council, however).

## The Acting Head (and Deputy)

There are two methods of temporarily replacing the head of council if that person is absent or ill:

- council can pass a resolution appointing one of its members to act in his place for a specified period of time and to have all the rights, powers and authority of the head during that time; or
- council can pass a by-law naming a member of council to act in place of the head of council from time to time.

The first of these methods is generally used if the head of council is going to be absent infrequently or for short periods of time. The resolution will list the dates on which the member will act as head. This method is used in the municipalities that spread the "acting" duties out among members of council.

In other municipalities the second method is found to be more appropriate. A specific member of council is named in the by-law, and acts on behalf of the head of council whenever that person is



absent. This second method has led to the creation of the "deputy" mayor or warden. The "deputy" is generally chosen by council early in its term, and holds the position throughout the term.

In some municipalities it has been the practice for the head of council to appoint his replacement. This does not meet the requirements of the statutes, so there should always be a resolution or by-law from council.

The only "deputy" position recognized by the statutes is that of deputy reeve, but this does not mean deputy head of council. When it comes to naming an acting head of council the deputy reeve is not automatically the person named. The position of deputy reeve is basically intended to allow municipalities to have additional votes on county councils, and is found only in municipalities that are part of a county, and that have more than 1,000 electors. Some counties are now eliminating deputy Reeves from their councils and devising alternative methods of allowing additional votes for municipalities with large populations.

#### The Head As the Leader

If the role of head of council had to be explained in a single word, that word would most likely be "leadership". All of the special authority given to the head of council suggests a leadership role. The fact that the head serves on various boards and commissions expands this role.

Without strong leadership most groups will not function properly. But at the same time, any leader who does not have the respect of the group will not be able to fulfill his role. In municipal government this leadership role is usually not one of dictating and ordering, but of quietly and effectively achieving consensus on issues, balancing demand for service and programs against the availability of finances, and making certain that all elements of the community are working toward the same goals.

Do you want more information on this subject? Ask any of the field officers of the Local Government Division. They are located at these addresses:

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